



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI

GOVERNOR

MEMORANDUM

DAVID P. LITTELL

COMMISSIONER

TO: Board of Environmental Protection
FROM: Peter Carleton, Bureau of Air Quality Control
SUBJECT: Maietta Enterprises, Inc. (Maietta)
DATE: August 20, 2009

*** **

Statutory and Regulatory References:

Maietta Enterprises, Inc. (Maietta) operates an aggregate processing facility located on Route 113 in West Baldwin, Maine, under the terms and conditions established in Air Emission License A-40-71-D-N issued on March 11, 2004, as well as being subject to all applicable state and federal regulations.

Description:

Department staff documented that Maietta was in violation of Maine's rule 06-096 CMR 115 by failing to amend the facility's Air Emission License upon the addition of new equipment to the facility. Department staff also found Maietta to be in violation of the facility's Air Emission License by failing to maintain records in accordance with Air Emission License A-40-71-D-N. The Department also found Maietta to be in violation of Maine's rule 06-096 CMR 102 by utilizing a burn barrel at the West Baldwin site.

Location:

West Baldwin, Maine

Environmental Issues:

The Department imposes air emission license conditions to ensure that the licensed equipment is operated in a manner consistent with good air pollution control practices and in a manner protective of air quality. Compliance with all air emission license conditions and applicable regulations is essential to the maintenance of good air quality.

Department Recommendation:

Staff recommends approval of the Consent Agreement which requires Maietta to comply with the requirements of the facilities Air Emission License (A-40-71-D-N) and applicable state and federal regulations and provides for payment of civil penalties in the amount of \$1,400.00 to be paid in monthly installments of \$200 beginning on the signature of the attached consent agreement and ending in January 1, 2010. The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline.

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IN THE MATTER OF:

Maietta Enterprises, Inc.)	ADMINISTRATIVE CONSENT
Cumberland County)	AGREEMENT
West Baldwin, Maine)	
A-40-71-D-N)	

This Agreement by and among Maietta Enterprises, Inc., the Maine Department of Environmental Protection (the "Department") and the Maine Office of the Attorney General is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1)(A).

The parties agree as follows:

1. Maietta Enterprises, Inc. (Maietta), located on Route 113 in West Baldwin, Maine, is a Maine corporation in good standing to conduct business as a crushed rock and gravel production facility.
2. Maietta operates the West Baldwin facility under the terms and conditions of Air Emission License A-40-71-D-N issued on March 11, 2004. Maietta's Air Emission Licenses provides for the operation of fuel burning and process equipment associated with crushed rock and gravel production including several rock crushers and diesel generators.
3. Air Emission License A-40-71-D-N contains Condition (2) which states in relevant part:
 - (2) The licensee shall acquire a new or amended air emission license prior to commencing construction of a modification, unless specifically provided for in Chapter 115. [MEDEP Chapter 115]
4. Maine's Rule *Major and Minor Source Air Emission License Regulations*, 06-096 CMR 115(1)(B)(2) states in relevant part:

1. Applicability

B. General Requirement. An Air Emission License is required for ...

- (2) Any source whose potential to emit can be determined a Minor source.

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Maietta Enterprises, Inc.
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5. Air Emission License A-40-71-D-N contains Condition (16), Paragraph B, which states in relevant part:

(16) Rock Crushers

B. Maietta shall maintain a log detailing the maintenance on the water spray nozzles. The maintenance log shall be kept on-site at the rock crushing location. [MEDEP Chapter 115, BPT]

6. Air Emission License A-40-71-D-N contains Condition (20), which states in relevant part:

(20) Maietta shall keep a copy of this Order on site, and have the operator(s) be familiar with the terms of this Order. [MEDEP Chapter 115, BPT]

7. Maine's Rule *Open Burning*, 06-096 CMR 102(2) states in relevant part:

Chapter 102 OPEN BURNING

2. Prohibitions and Permissible Open Burning. Outdoor burning is prohibited in all areas of the State...

8. During a site visit to Maietta's West Baldwin facility, performed on August 14, 2008, Department staff documented that Maietta had removed the 1986 Jaw Crusher identified in the facility's Air Emission License (A-40-71-D-N) and replaced the crusher with a newer model portable track crusher and began crushing operations before acquiring an Air Emission License amendment for the operation of the new rock crusher. By failing to acquire an Air Emission License amendment for the facility's new rock crusher, Maietta violated 06-096 CMR 115 and Condition (2) of Air Emission License A-40-71-D-N.
9. During the August 14, 2008 site visit, Department staff also documented that some records required to be kept by A-40-71-D-N were either not kept or not maintained in the manner required by A-40-71-D-N. By failing to maintain records in accordance with A-40-71-D-N, Maietta violated Conditions (16)(B) and (20) of Air Emission License A-40-71-D-N.
10. On a subsequent site visit conducted on November 6, 2008, Department staff discovered evidence of open burning of prohibited materials being undertaken at Maietta's West Baldwin site. Open burning of the materials found in a burn barrel at Maietta's site are prohibited under 06-096 CMR 102. By conducting open burning of prohibited materials at Maietta's facility, Maietta violated 06-096 CMR 102.

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11. A Letter of Warning (LOW) was sent to Maietta by the Department on November 19, 2008, which discussed the violations described in paragraphs eight (8), nine (9) and ten (10) above.
12. A Notice Of Violation (NOV) was issued to Maietta on November 26, 2008 for the violations described in paragraphs eight (8), nine (9) and ten (10) above.
13. The Department has regulatory authority over the activities described herein.
14. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is a part of the Department.
15. This Agreement shall not become effective unless and until it is approved by the Board and the Office of the Attorney General.
16. To resolve the violations identified in paragraphs eight (8), nine (9) and ten (10) above, Maietta agrees to pay the sum of fourteen hundred dollars (\$1,400.00) as a civil monetary, to the *Treasurer, State of Maine*. Payments shall be made in installments in accordance with the following schedule:
 1. Two hundred dollars (\$200.00) in payment upon signature of this Agreement;
 2. Two hundred dollars (\$200.00) in payment on or before August 1, 2009;
 3. Two hundred dollars (\$200.00) in payment on or before September 1, 2009;
 4. Two hundred dollars (\$200.00) in payment on or before October 1, 2009;
 5. Two hundred dollars (\$200.00) in payment on or before November 1, 2009.
 6. Two hundred dollars (\$200.00) in payment on or before December 1, 2009;
 7. Two hundred dollars (\$200.00) in payment on or before January 1, 2010;
17. In the event that an installment is not made by the required date, the Department shall provide written notice to Maietta. In the event Maietta fails to tender a required installment payment within 15 days of receipt of that notice, a five hundred dollar (\$500.00) stipulated penalty shall be assessed and all remaining payments shall be accelerated and shall be immediately due. In the event that full payment of all monies due is not received by the Department 45-days following the receipt of notice, an additional five hundred dollars (\$500.00) stipulated penalty shall be assessed and shall continue to be assessed for each 30-day period thereafter. Maeitta shall pay the State's costs and attorneys fees in any collection action arising out of this Agreement.

Maietta Enterprises, Inc.
Cumberland County
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18. The Department and the Office of the Attorney General grant Maietta a release of the causes of action that they have for the specific violations described in paragraphs eight (8), nine (9) and ten (10) above in consideration of the requirements called for in paragraph sixteen (16) above. The release shall not become effective until all requirements of this Agreement are satisfied.
19. Non-compliance with this Agreement voids the release set forth in paragraph seventeen (17) of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
20. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements.
21. The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this agreement of four (4) Pages.

MAIETTA ENTERPRISES, INC.

BY: Vincent A Maietta
NAME, TITLE

7-10-09
DATE

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
SUSAN M. LESSARD, CHAIR DATE

SEEN AND AGREED TO, MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____
GERALD D. REID, ASSISTANT ATTORNEY GENERAL DATE